

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In Re:

**Thaddeus Dawson And Natasha Dawson**

Case No. 09-80270

Chapter 13

Social Security No. xxx-xx-5366 and xxx-xx-6238  
Address: 2635 Ardsley Drive, Durham, NC 27704-

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Debtors

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**MOTION TO MODIFY PLAN**

**NOW COME the Debtors**, by and through counsel undersigned, who move, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtors show unto this Court the following:

1. This case was filed on February 18, 2009, with the Chapter 13 plan being subsequently confirmed on May 26, 2009.
2. The Debtors propose to modify the Chapter 13 plan in this case in the following respects:  
  
From:           \$2,866.00 per month.  
  
To:               \$2,866.00 per month through July 2010, followed thereafter by \$1,671.00 per month, starting in October 2010.
3. In addition, the Debtors request a "waiver" to move their Chapter 13 plan payment delinquency to the end of the Chapter 13 plan for payment. As a condition of receiving these waivers the Debtors agree that, should any subsequent payments be more than thirty (30) days delinquent within the twelve (12) months following the entry of this Order, that the Debtors' case may be dismissed without further hearing by the Court. The Debtors agree that any Order allowing such waivers shall not be *res judicata* as to timely Motions for Relief filed by secured creditors in this case.
4. The changed circumstances that justify the proposed modification are as follows:
  - a. The Male Debtor had oral surgery, which he both had to pay for in advance and was temporarily out of work.
  - b. The Female Debtor had surgery in April, resulting in additional medical copayments and time out of work.
  - c. The Debtors' vehicle have required more that \$1,000.00 in repairs this year.
  - d. The Chapter 13 Plan payment increased from the original \$2,604.00 a month to the current \$2,866.00.

5. An Amended Schedule I for the Debtors is attached hereto and is incorporated hereto by reference.
6. An Amended Schedule J for the Debtors is attached hereto and is incorporated by reference.
7. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes, as detailed on the attached Chapter 13 Worksheet:
  - a. Change in dividend to unsecured creditors.
  - b. Change in length of plan.
  - c. Loss of disposable income.
  - d. Filed claims different from schedules.

**Appended Application for an Additional Attorney Fee**

8. Counsel for the Debtors further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify.

WHEREFORE, the Debtors pray that this Court grant their Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: October 4, 2010

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s Edward C. Boltz

Edward C. Boltz

North Carolina State Bar No.: 23003

6616-203 Six Forks Road

Raleigh, N.C. 27615

(919) 847-9750

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Debtors

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**CERTIFICATE OF SERVICE**

I, Patty Cherigo, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on October 4, 2010, I served copies of the foregoing **MOTION TO MODIFY PLAN** electronically, or when unavailable, by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II  
Chapter 13 Trustee  
Michael West  
U.S. Bankruptcy Administrator

Thaddeus Dawson And Natasha Dawson  
2635 Ardsley Drive,  
Durham, NC 27704-

All creditors listed on the attached Mailing Matrix at the addresses listed thereon.

/s Patty Cherigo  
Patty Cherigo

In re **Thaddeus Boyd Dawson, Jr.  
Natasha Leigh Dawson**Case No. **09-80270**

Debtor(s)

**SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED**

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
<b>Married</b>	RELATIONSHIP(S): <b>None.</b>	AGE(S):
<b>Employment:</b>	DEBTOR	SPOUSE
Occupation	<b>Operator</b>	<b>Grants &amp; Contract Assistant</b>
Name of Employer	<b>Cree, Inc.</b>	<b>Duke University</b>
How long employed	<b>11 Years</b>	<b>4 Years</b>
Address of Employer	<b>4600 Silicon Drive Durham, NC 27703</b>	<b>PO Box 90291 Durham, NC 27708</b>

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)  
2. Estimate monthly overtime

	DEBTOR	SPOUSE
1.	\$ <u>3,747.91</u>	\$ <u>3,478.85</u>
2.	\$ <u>0.00</u>	\$ <u>0.00</u>

## 3. SUBTOTAL

\$ <u>3,747.91</u>	\$ <u>3,478.85</u>
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## 4. LESS PAYROLL DEDUCTIONS

- a. Payroll taxes and social security  
b. Insurance  
c. Union dues  
d. Other (Specify) See Detailed Income Attachment

\$ <u>988.83</u>	\$ <u>904.03</u>
\$ <u>85.17</u>	\$ <u>70.88</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>339.43</u>	\$ <u>62.50</u>

## 5. SUBTOTAL OF PAYROLL DEDUCTIONS

\$ <u>1,413.43</u>	\$ <u>1,037.41</u>
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## 6. TOTAL NET MONTHLY TAKE HOME PAY

\$ <u>2,334.48</u>	\$ <u>2,441.44</u>
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7. Regular income from operation of business or profession or farm (Attach detailed statement)  
8. Income from real property  
9. Interest and dividends  
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above  
11. Social security or government assistance (Specify):

\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

12. Pension or retirement income  
13. Other monthly income (Specify):

\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>
\$ <u>0.00</u>	\$ <u>0.00</u>

## 14. SUBTOTAL OF LINES 7 THROUGH 13

\$ <u>0.00</u>	\$ <u>0.00</u>
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## 15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

\$ <u>2,334.48</u>	\$ <u>2,441.44</u>
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## 16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

\$ <u>4,775.92</u>	
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(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

**None Anticipated**

In re Thaddeus Boyd Dawson, Jr.  
Natasha Leigh Dawson

Debtor(s)

Case No. 09-80270

**SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED**  
**Detailed Income Attachment**

**Other Payroll Deductions:**

<u>401(k) Contributions</u>	\$ <u>221.52</u>	\$ <u>0.00</u>
<u>401(k) Loans</u>	\$ <u>117.91</u>	\$ <u>0.00</u>
<u>Monthly Parking</u>	\$ <u>0.00</u>	\$ <u>62.50</u>
<u>Total Other Payroll Deductions</u>	\$ <u>339.43</u>	\$ <u>62.50</u>



In re **Thaddeus Boyd Dawson, Jr.**  
**Natasha Leigh Dawson**

Debtor(s)

Case No. **09-80270****SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED**  
**Detailed Expense Attachment****Other Utility Expenditures:**

Cablevision	\$	175.00
Cellular Phone	\$	200.00
Trash	\$	20.00
Internet	\$	35.00
<b>Total Other Utility Expenditures</b>	<b>\$</b>	<b>430.00</b>

**Other Expenditures:**

Chapter 13 Plan Payment	\$	1,671.00
Personal Grooming	\$	161.65
Emergencies/Miscellaneous	\$	200.00
Pet Expenses	\$	100.00
<b>Total Other Expenditures</b>	<b>\$</b>	<b>2,132.65</b>

**CH. 13 PLAN - DEBTS SHEET**

(MIDDLE DISTRICT - STEP PLAN)

Date: 8/9/10

Lastname-SS#:

Dawson-5366 MTM

**RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN**

Retain	Creditor Name	Sch D #	Description of Collateral

**SURRENDER COLLATERAL**

Creditor Name	Description of Collateral

**ARREARAGE CLAIMS ON RETAINED COLLATERAL**

Retain	Creditor Name	Sch D #	Arrearage Amount
	BAC Home Loan		\$2,809
			\$2,628

**REJECTED EXECUTORY CONTRACTS/LEASES**

Creditor Name	Description of Collateral

**LTD - DOT on PRINCIPAL RESIDENCE / OTHER REAL PROPERTY**

Retain	Creditor Name	Sch D #	Mortgage Payment	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
	BAC Home Loan		\$1,197	n/a	n/a	\$1,197	
				n/a	n/a		
				n/a	n/a		

**STD - SECURED DEBTS (Retain Collateral & Pay FMV Of Collateral)**

Retain	Creditor Name	Sch D #	FMV	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
				7.00			
				7.00			
				7.00			
				7.00			

**STD - SECURED DEBTS & 910 CLAIMS (Pay 100%)**

Retain	Creditor Name	Sch D #	Payoff Amount	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
	BB&T		\$9,971	5.25	\$100	\$250	03 Infiniti
				7.00			
				7.00			
				7.00			
				7.00			

ATTORNEY FEES (Unpaid Part)		Amount
Law Offices of John T. Orcutt, P.C.		\$250
SECURED TAXES		Secured Amount
IRS Tax Liens		
Real Property Taxes on Retained Realty		
UNSECURED PRIORITY DEBTS		Amount
IRS Taxes		
State Taxes		
Personal Property Taxes		
Alimony or Child Support Arrearage		
COSIGN PROTECT (Pay 100%)	Int. %	Payoff Amount
All 'Co-Sign Protect Debts (See***)		
GENERAL NON-PRIORITY UNSECURED		Amount to Pay*
DMI = None(\$0)		

**PROPOSED CHAPTER 13 PLAN**

\$ 1671 /month for 44 months, then

\$ N/A /month for N/A months.\*\*

**Definitions**

Sch D # = The number of the secured debt as listed on Schedule D.

Adequate Protection = Required monthly 'Adequate Protection' payment.

\* = Minimum of DMI x ACP, minus all co-sign protect debt.

\*\* = Plan duration is subject to "Duration of Chapter 13 Plan" provision.

\*\*\* Co-sign protect on all debts so designated on filed schedules D, E and F

Final\_MD\_Step (rev. 11/6/07) © Copyright by John T. Orcutt

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Other Miscellaneous Provisions